

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**  
**OPINION SUMMARY**

STATE OF MISSOURI,	)	No. ED102459
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of the City of St. Louis
vs.	)	
	)	Honorable Thomas C. Grady
PERCY BURNETT,	)	
	)	
Appellant.	)	FILED: June 21, 2016

Percy Burnett (“Burnett”) appeals from the judgment of the trial court following a jury trial convicting him on one count of felony resisting arrest. The trial court sentenced Burnett to one year in a medium security institution. On appeal, Burnett argues (1) that the State presented insufficient evidence to convict him for felony resisting arrest because no evidence proved that officers arrested him for a felony; and (2) that the trial court should have granted his Batson motion because the State’s proffered reason for striking a juror was pretextual.

REVERSED AND REMANDED.

DIVISION FOUR HOLDS: Because the State did not present sufficient evidence to prove that police contemplated arresting Burnett for a felony, we grant Burnett’s first point. However, because the State presented sufficient evidence to convict Burnett for misdemeanor resisting arrest, and the jury found the requisite elements, we enter judgment against Burnett for misdemeanor resisting arrest. Burnett’s misdemeanor conviction necessitates our review of his Batson point, but we deny that point because Burnett failed to carry his burden to prove that the State’s race-neutral explanation was pretextual.

Opinion by: Kurt S. Odenwald, Judge  
concur.

Sherri B. Sullivan, P.J., and Lisa P. Page, J.,

Attorney for Appellant: Gwenda Renee Robinson

Attorney for Respondent: Christ Koster and Mary H. Moore

<b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b>
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